

Jacqueline R. Cherry (Direct and Surrebuttal testimony) and A. R. Watts on behalf of the Commission Staff; and thirteen (13) hearing exhibits.

Based upon the evidence of the record, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The record of this proceeding indicates that for the period from March 2002 through February 2003, SCE&G's total fuel costs for its electric operations amounted to \$358,605,056. Hearing Exhibit No. 7, Audit Exhibit E.

2. Staff reviewed and compiled a percentage generation mix statistic sheet for SCE&G's fossil, nuclear, and hydroelectric plants for March 2002 through February 2003. The fossil generation ranged from a high of 95% in May 2002, to a low of 67% in October, 2002. The nuclear generation ranged from a high of 28% in October 2002 to a low of 0% in May 2002. The percentage of generation by hydro ranged from a high of 5% in April, May, October, November, and December of 2002 and February of 2003 to a low of 4% in March, June, July, August, and September of 2002 and January of 2003. Hearing Exhibit No. 10, Utilities Department Exhibit No. 3.

3. During the March 2002 through February 2003 period, coal suppliers delivered 5,968,034 tons of coal. The Commission Staff's audit of SCE&G's actual fuel procurement activities demonstrated that the average monthly received cost of coal varied from \$29.76 per ton in May 2002 to \$31.35 per ton in December 2002. Hearing Exhibit No. 7, Audit Department Exhibits A and C.

4. Staff collected and reviewed certain generation statistics of SCE&G's major plants for the twelve months ending February 28, 2003. The nuclear fueled Summer Plant had the lowest average fuel cost at 0.52 cents per kilowatt-hour. The highest amount of generation was 4,923,036 megawatt-hours produced at the Summer Plant. Hearing Exhibit No. 10, Utilities Department Exhibit 4.

5. The Commission Staff conducted an extensive review and audit of SCE&G's fuel purchasing practices and procedures for the subject period. Based on its audit, Staff adjusted the cumulative underrecovery as of April 2003 by \$5,456,738. This adjustment reflects various corrections made by Staff in various Company fuel costs, such as Fossil Fuel Burned Costs, Nuclear Fuel Costs, and Purchase and Interchange Power Fuel Costs. There is a substantial dispute between the Company and the Staff over this difference. The dispute centers over amounts disallowed by Staff because of its consideration of fuel costs listed on interchange purchase power invoices, and Staff's disallowance of certain wheeling charges. Staff has included only the fuel costs designated as such in those instances where the fuel component could be identified on invoices, with an appropriate allocation made to reflect the fuel associated with native load purchases based on the ratio of MWH purchased for native load, or an adjustment of (\$5,012,249). Staff has also eliminated wheeling charges of (\$854,283), which were booked into a transmission account. Direct and Surrebuttal Testimony of Cherry; Hearing Exhibit No. 7, Audit Department Exhibits. This methodology is hotly contested by the Company. See Rebuttal testimony of Company witnesses Klein and How. Klein disputes the accuracy of the fuel charges as listed on interchange power invoices from Duke

Power and Carolina Power & Light. Rebuttal testimony of Klein at 11. How states a belief that the Staff's view is contrary to established Commission precedent and to the established law. Rebuttal testimony of How at 2.

6. The Commission recognizes that the approval of the currently effective methodology for recognition of the Company's fuel costs requires the use of anticipated or projected costs of fuel. The Commission further recognizes the fact inherent in the utilization of a projected average fuel cost for the establishment of the fuel component in the Company's base rates that variations between the actual costs of fuel and projected cost of fuel would occur during the period and would likely exist at the conclusion of the period. S.C. Code Ann. §58-27-865 (Supp. 2002) establishes a procedure whereby the difference between the base rate fuel charges and the actual fuel costs would be accounted for by booking through deferred fuel expenses with a corresponding debit or credit.

7. Company witness John Hendrix noted that in our Order No. 2002-347, dated May 1, 2002, this Commission approved a 1.722 cents per KWH fuel component, which was in effect for the period May 2002 through January 2003. However, in Order No. 2003-38, dated January 31, 2003, this Commission approved a 1.678 cents per KWH fuel component, which is currently in effect. Hendrix at 2. Hendrix's projections on behalf of the Company show an under recovery of \$22,821,179 at April 2003 and an under recovery of \$21,576,509 at April 2004. Id. at 3. For the twelve months May 2003 through April 2004, the base fuel cost to the Company is 1.780 cents per KWH, which includes .108 cents per KWH for the anticipated under collection. Id. However, Hendrix

testified that the Company is proposing that the fuel component remain at 1.678 cents per KWH, effective with the billing month of May 2003, and continuing through the billing month of April 2004. Id. at 4. Hendrix stated that, within the forecast period, the Company will experience major scheduled maintenance and refueling outages at several of its generating units. Hendrix noted that these outages are prudent, but would cause a short-term increase in the forecasted average fuel cost. Given this fact, and the current state of the economy, the Company believes that it is in the best interest of the Company's customers not to increase the fuel component of SCE&G's electric rates at this time. Id. We agree with this conclusion for the reasons stated.

8. SCE&G calculated the capacity factor of the V. C. Summer Station during the review period to be 99.2%. Testimony of Archie at 2.

CONCLUSIONS OF LAW

1. Pursuant to South Carolina Code Ann. Section 58-27-865(B)(Supp. 2002), each electrical utility must submit to the Commission its estimates of fuel costs for the next twelve (12) months. Following an investigation of these estimates and after a public hearing, the Commission directs each electrical utility "to place in effect in its base rate an amount designed to recover, during the succeeding twelve months, the fuel costs determined by the Commission to be appropriate for that period, adjusted for the overrecovery or underrecovery from the preceding twelve month period." Id.

2. South Carolina Code Ann. Section 58-27-865(G)(Supp. 2002) requires the Commission to allow electrical utilities to recover "all their prudently incurred fuel

costs... in a manner that tends to assure public confidence and minimize abrupt changes in charges to consumers.”

3. As stated by the Supreme Court in Hamm v. South Carolina Public Service Commission, 291 S.C. 178, 352 S.E.2d 476, 478 (1987), Section 58-27-865(F) requires the Commission “to evaluate the conduct of the utility in making the decisions which resulted in the higher fuel costs. If the utility has acted unreasonably, and higher fuel costs are incurred as a result, the utility should not be permitted to pass along the higher fuel costs to its consumers.” “[T]he rule does not require the utility to show that its conduct was free from human error; rather it must show it took reasonable steps to safeguard against error.” Id. at 478, citing Virginia Electric and Power Co. v. The Division of Consumer Council, 220 Va. 930, 265 S.E.2d 697 (1980).

4. The Commission recognizes that Section 58-27-865(F) provides it with the authority to consider the electrical utility’s reliability of service, its economical generation mix, the generating experience of comparable facilities, and its minimization of the total cost of providing service in determining to disallow the recovery of any fuel costs.

5. Further, S.C. Code Ann. §58-27-865 (F)(Supp. 2002) provides that:

[T]here shall be a rebuttable presumption that an electrical utility made every reasonable effort to minimize cost associated with the operation of its nuclear generation facility or system ...if the utility achieved a net capacity factor of ninety-two and one-half percent or higher during the period under review. The calculation of the net capacity factor shall exclude reasonable outage time associated with reasonable refueling, reasonable maintenance, reasonable repair, and reasonable equipment replacement outages; the reasonable reduced power generation experienced by nuclear units as they

approach a refueling outage; the reasonable reduced power generation experienced by nuclear units associated with bringing a unit back to full power after an outage; Nuclear Regulatory Commission required testing outages unless due to the unreasonable acts of the utility; outages found by the [C]ommission not to be within the reasonable control of the utility; and acts of God. The calculation also shall exclude reasonable reduced power operations resulting from the demand for electricity being less than the full power output of the utility's nuclear generation system. If the net capacity factor is below ninety-two and one-half percent after reflecting the above specified outage time, then the utility shall have the burden of demonstrating the reasonableness of its nuclear operations during the period under review.

6. Upon consideration of the evidence of record, the Commission concludes that SCE&G's generating facilities were operated efficiently during the period under review and that the corresponding fuel costs were prudently incurred. This conclusion is based upon the opinion and report of the Staff which indicated that there were no unreasonable Company actions which caused SCE&G's customers to incur higher fuel costs. This conclusion is further supported by the evidence presented by SCE&G that the nuclear unit achieved a capacity factor of 99.2%. Additionally, SCE&G's steam fossil units achieved an availability of 79.85%. By comparison, the NERC five year average of availability of similar sized units from 1997-2001 is 86.95%. Availability was lower than the national average, due to the timing and duration of the normal planned and maintenance outages, the preparation for the new combined cycle units at Urquhart Station, and environmental requirements. During the peak period of June 1, 2002 through September 30, 2002, SCE&G operated at an availability of 92.2%. Testimony of Landreth at 4.

There is various language in Section 58-27-865 that provides insight in applying the fuel statute in specific instances. Besides stating what is included in “fuel cost,” one area of the statute addresses the offsetting of cost of fuel recovered through sales of power to neighboring utilities against fuel costs to be recovered. See Section 58-27-865(E)(Supp. 2002). Another area (Section F) spells out the rebuttable presumption of prudence in operation by a utility of its nuclear generation facilities with the attaining of a certain level of production during the review period. Under this Section, costs can be disallowed. Section F shows that the aim of the statute is to encourage the affected utility to operate its production system, including the purchase power option, in the most effective and efficient manner. This is in full concert with the provision of electric service at the most reasonable and prudent rate, through minimization of the total cost of providing service.

The question raised by the testimony and evidence of the record is what is the most appropriate and reasonable proxy to use for purchased power expenses when the corresponding fuel cost is not identified, and, further, should this proxy also be used for interchange transactions, where a fuel cost is listed on the purchase power invoice, but the source of that fuel cost is in question. Currently, the “avoided cost” proxy for purchase power which was adopted by us in Order No. 2002-347 is on appeal to the Courts of this State. The Consumer Advocate and the Company disagree as to whether S.C. Code Ann. Section 58-27-865 allows an electric utility to recover as a fuel cost through the electric utility’s fuel cost factor the electric utility’s entire purchased power costs incurred during the period under review, provided such purchase power costs are

less than the fuel costs the electric utility avoids by making such purchase, or whether the utility may only recover the fuel costs or estimated fuel costs associated with such purchases. Further, the Staff and Company disagree on whether fuel costs shown on interchange purchase power invoices should be used to ascertain actual fuel costs. We believe that the Court's guidance on these issues would be useful on the proper application of the law in the present case. Accordingly, the Commission will not address the purchase power issues described above in the Order of this case. Over- and/or underrecovery will be adjusted in the next fuel case after the final court decision is rendered on this issue, if said decision is applicable to the present proceeding, and adjustment is appropriate.

7. The Consumer Advocate's Motion to disallow all purchase power costs in the instant proceeding is denied. Clearly, the Company met its burden of establishing that it employed purchased power during the review period. The question that remains is the application of the avoided cost proxy as described above to what cost should be allowable for the purchased power. Under our holding, the Courts will rule on the law in the already existing appeal of the 2002 SCE&G fuel case, and, if appropriate, we will apply the Court's ruling to the over- and/or underrecovery in the present case before us.

8. SCE&G's Motion to exclude the Commission from taking judicial notice of the Pace Global Energy Services Southeast Power Market Assessment from another docket is denied.

9. After considering the directives of §58-27-865 (B) and (F) which require the Commission to place in effect a base fuel cost which allows the Company to recover

its fuel costs for the next twelve months adjusted for the overrecovery or underrecovery from the preceding twelve month period, the Commission has determined that the appropriate base fuel factor for May 2003 through April 2004 is 1.678 cents per kilowatt-hour. The Commission finds that a 1.678 cents per kilowatt-hour fuel component will allow SCE&G to recover its projected fuel costs and, at the same time, prevent abrupt changes in charges to SCE&G's customers. Staff shall monitor the cumulative recovery account to assure a proper level of reasonableness.

IT IS THEREFORE ORDERED THAT:

1. The base fuel factor for the period May 2003 through April 2004 is set at 1.678 cents per kilowatt-hour.
2. SCE&G shall file an original and ten (10) copies of the South Carolina Retail Adjustment for Fuel Cost Tariff within ten (10) days of receipt of this Order.
3. SCE&G shall comply with the notice requirements set forth in S.C. Code Ann., §58-27-865 (B) (Supp. 2002).
4. SCE&G shall continue to file the monthly reports as previously required.
5. SCE&G shall account monthly to the Commission for the differences between the recovery of fuel costs through base rates and the actual fuel costs experienced by booking the difference to unbilled revenues with a corresponding deferred debit or credit. Staff shall monitor the cumulative recovery account.
6. SCE&G shall submit monthly reports to the Commission of fuel costs and scheduled and unscheduled outages of generating units with a capacity of 100 MW or greater.

7. The issue of over- and/or underrecovery in this case shall be examined again in light of the final Court decision on the Consumer Advocate's appeal of SCE&G's 2002 fuel case decision by this Commission, and any adjustments accordingly.

8. The Consumer Advocate's Motion to disallow all purchased power costs in the instant proceeding is denied.

9. SCE&G's Motion to exclude the Commission taking judicial notice of the Pace Global Energy Services Southeast Power Market Assessment from another docket is denied.

10. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Gary E. Walsh, Executive Director

(SEAL)